
**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAN LEROY GOODMAN,

Defendant.

**MEMORANDUM DECISION AND
ORDER GRANTING MOTION TO
CONTINUE TRIAL AND EXCLUDING
TIME UNDER THE SPEEDY TRIAL
ACT**

Case No. 4:20-cr-00013-DN-DBP

District Judge David Nuffer

Based on the parties' oral motion to continue trial and exclude time ("Motion"), and for good cause appearing, the court makes the following findings:

1. Defendant first appeared in this court on February 5, 2020,¹ for an arraignment on the indictment filed in this case. Trial was previously set to begin on April 13, 2020. The trial was continued twice, first to August 17, 2020², and then to December 14, 2020.³ As a result of the COVID-19 pandemic, trial was vacated and later rescheduled again November 30, 2021. On November 8, 2021, trial was continued to April 5, 2022.⁴ On March 18, 2022, trial was again continued to June 7, 2022.⁵

2. Parties have jointly moved to continue trial until the week of July 11, 2022, construed as a motion under 18 U.S.C. § 3161(h)(7) (ends of justice).

¹ Minute Entry for Proceedings Held Before Magistrate Judge Evelyn J. Furse, docket no. 11, filed February 5, 2020.

² Order to Continue Jury Trial, [docket no. 22](#), filed March 17, 2020.

³ Memorandum Decision and Order Continuing Trial and Excluding Time Under the Speedy Trial Act, [docket no. 27](#), filed August 5, 2020.

⁴ Order to Continue Jury Trial and Exclude Time Under the Speedy Trial Act, [docket no. 64](#), filed November 8, 2021.

⁵ Memorandum Decision and Order Continuing Trial and Excluding Time Under the Speedy Trial Act, [docket no. 71](#), filed March 18, 2022.

3. The following factual assertions are made which support a request for a continuance:

- a) The trial has been moved from St. George, Utah, to Salt Lake City, Utah.
 - b) A new COVID-19 variant has recently emerged.
 - c) The victim has important scheduling concerns which conflict with potential trial dates.
 - d) A potential scheduling conflict has arisen with an expert for the defense.
4. Defendant is in custody and agrees with this continuance.
5. Judge Paul Kohler ruled orally to continue the trial at a status conference on May 18, 2022. This written order memorizes Judge Kohler's ruling.
6. There are no other defendants in this case.

DISCUSSION

An “ends of justice” exclusion of time under the Speedy Trial Act is disfavored and “was meant to be a rarely used tool for those cases demanding more flexible treatment.”⁶

As reflected on the record of the May 18, 2022 hearing, failure to grant the requested continue, however, would result in a miscarriage of justice and would deny counsel for the government and Defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. The combination of factors, including the new location of trial, transportation of Defendant, a new COVID-19 variant, the victim's schedule, potential problems with the defense's expert, and Judge Nuffer's recent contraction of COVID-19 require

⁶ [United States v. Toombs, 574 F.3d 1262, 1269 \(10th Cir. 2009\)](#).

additional time for trial preparation. Therefore, the ends of justice served by this continuance outweigh the best interests of the public and Defendant in a speedy trial. The time from May 18, 2022 to the new trial date will be excluded from Defendant's speedy trial computation. The continuance is not based on lack of diligent preparation on the part of the attorney for the United States or the defense, or failure on the part of the attorney for the United States to obtain available witnesses.

Accordingly, the court finds that there are facts that support a continuance of the trial date in this matter, and good cause for a finding of excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161.

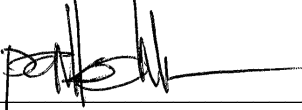
ORDER

THEREFORE, FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED:

1. The Motion is GRANTED. The trial previously scheduled for June 7, 2022, is continued to July 12, 2022.⁷
2. The time period between May 18, 2022, and July 12, 2022, inclusive, is excluded in computing the time within which the trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (h)(7)(B)(iv).

Dated May 19, 2022.

BY THE COURT:



Paul Kohler
United States Magistrate Judge

⁷ Parties originally requested that trial be continued to July 11, 2022. Due to a pre-existing jury trial in Salt Lake City and COVID-19 concerns, the trial will start on July 12, not July 11.